

**ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

March 17, 2014

3:19 p.m.

MEMBERS PRESENT

Representative Kurt Olson, Chair
Representative Lora Reinbold, Vice Chair
Representative Mike Chenault
Representative Bob Herron
Representative Charisse Millett
Representative Dan Saddler
Representative Andy Josephson

MEMBERS ABSENT

Representative Craig Johnson

COMMITTEE CALENDAR

HOUSE BILL NO. 316

"An Act relating to workers' compensation fees for medical treatment and services; relating to workers' compensation regulations; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 282

"An Act relating to the rights and obligations of residential landlords and tenants; and relating to the taking of a permanent fund dividend for rent and damages owed to a residential landlord."

- MOVED CSHB 282(L&C) OUT OF COMMITTEE

SENATE BILL NO. 159

"An Act relating to air ambulance service providers, air ambulance membership agreements, and regulation of air ambulance service providers and air ambulance membership agreements by the division of insurance; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 288

"An Act creating the Arctic infrastructure development program and fund in the Alaska Industrial Development and Export Authority."

- HEARD & HELD

HOUSE BILL NO. 281

"An Act relating to prescription of drugs by a physician without a physical examination."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 316

SHORT TITLE: WORKERS' COMPENSATION MEDICAL FEES

SPONSOR(s): LABOR & COMMERCE

02/19/14	(H)	READ THE FIRST TIME - REFERRALS
02/19/14	(H)	L&C
03/07/14	(H)	L&C AT 3:15 PM BARNES 124
03/07/14	(H)	Heard & Held
03/07/14	(H)	MINUTE(L&C)
03/10/14	(H)	L&C AT 3:15 PM BARNES 124
03/10/14	(H)	Heard & Held
03/10/14	(H)	MINUTE(L&C)
03/14/14	(H)	L&C AT 3:15 PM BARNES 124
03/14/14	(H)	Scheduled But Not Heard
03/17/14	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 282

SHORT TITLE: LANDLORD AND TENANT ACT

SPONSOR(s): ISAACSON

01/29/14	(H)	READ THE FIRST TIME - REFERRALS
01/29/14	(H)	L&C, JUD
02/28/14	(H)	L&C AT 3:15 PM BARNES 124
02/28/14	(H)	Heard & Held
02/28/14	(H)	MINUTE(L&C)
03/14/14	(H)	L&C AT 3:15 PM BARNES 124
03/14/14	(H)	Heard & Held
03/14/14	(H)	MINUTE(L&C)
03/17/14	(H)	L&C AT 3:15 PM BARNES 124

BILL: SB 159

SHORT TITLE: AIR AMBULANCE SERVICES

SPONSOR(s): STEDMAN

02/05/14	(S)	READ THE FIRST TIME - REFERRALS
02/05/14	(S)	L&C
02/18/14	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
02/18/14	(S)	Heard & Held
02/18/14	(S)	MINUTE(L&C)
02/20/14	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
02/20/14	(S)	Moved SB 159 Out of Committee
02/20/14	(S)	MINUTE(L&C)
02/21/14	(S)	L&C RPT 3DP
02/21/14	(S)	DP: DUNLEAVY, MICCICHE, STEDMAN
02/28/14	(S)	TRANSMITTED TO (H)
02/28/14	(S)	VERSION: SB 159
03/03/14	(H)	READ THE FIRST TIME - REFERRALS
03/03/14	(H)	L&C
03/17/14	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 288

SHORT TITLE: AIDEA: ARCTIC DEVELOPMENT PROGRAM/FUND
 SPONSOR(s): HERRON

01/29/14	(H)	READ THE FIRST TIME - REFERRALS
01/29/14	(H)	L&C, FIN
02/28/14	(H)	L&C AT 3:15 PM BARNES 124
02/28/14	(H)	Heard & Held
02/28/14	(H)	MINUTE(L&C)
03/17/14	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 281

SHORT TITLE: PRESCRIPTION WITHOUT PHYSICAL EXAMINATION
 SPONSOR(s): GATTIS

01/27/14	(H)	READ THE FIRST TIME - REFERRALS
01/27/14	(H)	HSS, L&C
02/13/14	(H)	HSS AT 3:00 PM CAPITOL 106
02/13/14	(H)	Heard & Held
02/13/14	(H)	MINUTE(HSS)
02/27/14	(H)	HSS AT 3:00 PM CAPITOL 106
02/27/14	(H)	Moved CSHB 281(HSS) Out of Committee
02/27/14	(H)	MINUTE(HSS)
02/28/14	(H)	HSS RPT CS(HSS) 4DP
02/28/14	(H)	DP: SEATON, PRUITT, KELLER, HIGGINS
03/17/14	(H)	L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

ANNA LATHAM, Staff
Representative Kurt Olson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 316 on behalf of the sponsor,
House Labor & Commerce Committee, Representative Kurt Olson,
Chair.

SALLIE STEVEK, Human Resources Director
Fairbanks North Star Borough (FNSB)
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 316.

REPRESENTATIVE DOUG ISAACSON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as prime sponsor of HB 282.

CLYDE (ED) SNIFFEN, JR., Senior Assistant Attorney General
Commercial/Fair Business Section
Civil Division (Anchorage)
Department of Law (DOL)
Anchorage, Alaska

POSITION STATEMENT: Provided comments and answered questions on
HB 282

SENATOR BERT STEDMAN
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as prime sponsor of SB 159.

CHRISTIE JAMIESON, Staff
Senator Bert Stedman
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified on behalf of the sponsor of SB
159.

SHELLY DEERING, Alaska Regional Manager
Airlift Northwest
Juneau, Alaska

POSITION STATEMENT: Testified in support of SB 159.

CHRIS MARTEN, Executive Director
Airlift Northwest
Seattle, Washington

POSITION STATEMENT: Testified during the discussion of SB 159.

MARTIN HESTER, Deputy Director
Division of Insurance (DOI)
Department of Commerce, Community, and Economic Development
(DCCED)

Juneau, Alaska

POSITION STATEMENT: Answered questions regarding SB 159.

KARLA HART

Juneau, Alaska

POSITION STATEMENT: Testified during the discussion of SB 159.

ED ZASTROW

Ketchikan, Alaska

POSITION STATEMENT: Testified in support of SB 159.

GRAHAM JUDSON, Staff

Representative Bob Herron

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified on behalf of the prime sponsor of
HB 288.

MYRON NANENG, Sr., President

Association Village Council Presidents

Bethel, Alaska

POSITION STATEMENT: Testified in support of HB 288.

MARK R. DAVIS, Deputy Director

Infrastructure Development

Alaska Industrial Development and Export Authority (AIDEA)

Department of Commerce, Community & Economic Development (DCCED)

Anchorage, Alaska

POSITION STATEMENT: Answered questions regarding HB 288.

RON LONG, Assistant City Manager

City of Seward

Seward, Alaska

POSITION STATEMENT: Testified in support of HB 288, Version N.

STEVE TRIMBLE, President

Trimble Strategies

Anchorage, Alaska

POSITION STATEMENT: Testified in support In HB 288.

REPRESENTATIVE LYNN GATTIS

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified as prime sponsor of HB 281.

REID HARRIS, Staff

Representative Lynn Gattis

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified on behalf of the sponsor of HB 281.

HENRY DEPHILLIPS, Doctor

Teladoc

Nashville, Tennessee

POSITION STATEMENT: Testified and answered questions during the discussion of HB 281.

DON HABEGER, Director

Division of Corporations, Business, & Professional Licensing

Department of Commerce, Community, & Economic Development

Juneau, Alaska

POSITION STATEMENT: Provided information on HB 281.

LAURA BROOKS, M.S., Health Care Administrator

Department of Corrections

Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of HB 281.

ROBERT LAWRENCE, Physician

Chief Medical Officer

Inmate Health Care

Department of Corrections (DOC)

Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of HB 281.

ACTION NARRATIVE

[3:19:33 PM](#)

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at 3:19 p.m. Representatives Chenault, Josephson, Herron, Reinbold, Millett, and Olson were present at the call to order. Representative Saddler arrived as the meeting was in progress.

HB 316-WORKERS' COMPENSATION MEDICAL FEES

[3:19:52 PM](#)

CHAIR OLSON announced that the first order of business would be HOUSE BILL NO. 316, "An Act relating to workers' compensation fees for medical treatment and services; relating to workers' compensation regulations; and providing for an effective date." [Before the committee was Version O, labeled 28-LS1362\O, Wallace, 3/10/14, adopted on 3/10/14.]

[3:20:30 PM](#)

ANNA LATHAM, Staff, Representative Kurt Olson, Alaska State Legislature, stated that Version O would set the fee schedules for workers' compensation based on a resource-based relative value scale, which in turn is based on the Centers for Medicaid and Medicare services, including a conversion factor set by the medical services review committee (MSRC). The MSRC would advise the workers' compensation board to set conversion factors for the fee schedules.

[3:21:27 PM](#)

REPRESENTATIVE REINBOLD made a motion to adopt Amendment 1, labeled 28-LS1362\O.1, Wallace, 3/10/14, which read:

Page 3, line 12, following the second instance of "the":

Insert "original"

Page 3, line 15, following the first instance of "the":

Insert "original manufacturer's"

CHAIR OLSON objected for the purpose of discussion.

[3:21:51 PM](#)

MS. LATHAM explained that the Amendment [1] would add language on page 3, line 12, to insert "original" and on page 3, line 15 to insert "original manufacturer's" with the intent that it would avoid the higher priced invoice costs for prescriptions or the mark ups on the original fees.

CHAIR OLSON removed his objection. There being no further objection, Amendment 1 was adopted.

[3:22:58 PM](#)

SALLIE STEVEK, Human Resources Director, Fairbanks North Star Borough (FNSB), stated this is the third time she has testified in support of HB 316. She appreciated the work addressing the concerns. As an employer with a self-funded workers' compensation program, she also appreciated the efforts to reform an expensive system. Mayor Hopkins spoke in favor of HB 316 last week and the Fairbanks North Star Borough Assembly adopted a resolution supporting the Workers' Compensation Board recommendations.

[3:24:17 PM](#)

REPRESENTATIVE JOSEPHSON, relative to current law, asked whether the FNSB knows what rate reduction will be achieved under the bill using Medicare and the conversion factor.

MS. STEVEK answered no. The FNSB hasn't performed any analysis, but she believes that the bill will definitely reduce the costs. She shared the concern of previous testifiers to be certain that when workers are injured that they are able to get care and this is why the multiplier and allowing the workers' compensation board to set rates is a reasonable way to address this.

[3:25:58 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 316.

[HB 316 was held over.]

HB 282-LANDLORD AND TENANT ACT

[3:26:32 PM](#)

CHAIR OLSON announced that the next order of business would be HOUSE BILL NO. 282, "An Act relating to the rights and obligations of residential landlords and tenants; and relating to the taking of a permanent fund dividend for rent and damages owed to a residential landlord." [Before the committee was Version 0, labeled 28-LS0930\0, Bullock, 2/22/14 adopted on 2/28/14.]

[3:27:01 PM](#)

REPRESENTATIVE DOUG ISAACSON, Alaska State Legislature, introduced himself.

3:27:45 PM

CHAIR OLSON said that the bill has had several hearings and a proposed committee substitute for HB 282, Version 0, was adopted. He said the committee had questions about "normal wear and tear."

3:28:16 PM

CLYDE (ED) SNIFFEN, JR., Senior Assistant Attorney General, Commercial/Fair Business Section, Civil Division, Department of Law (DOL), as the assistant attorney general for consumer protection was asked by the sponsor to address Mr. Block's concern about "normal wear and tear." He explained that it is a difficult term to define and the more attempts that are made to define it, the more problematic it becomes. He compared the term as being similar to the "reasonable person" standard, which is the standard used for most torts in Alaska. Although the term is always used to set a standard of care, it is best left to the judge and jury to decide its meaning. He said that "normal wear and tear" is another one of those terms, and the language in the statute is probably as close as one might get. He offered to work with Mr. Block to attempt to further refine the language. He cautioned the committee against trying to "drill down" on something too detailed since the more detailed it becomes the bigger the target it becomes in potential disputes. For example, he asked whether the definition will include the quality of construction or be related to the number of people living in the residence. He suggested that if some things are included it might mean that everything not included automatically does not fall under "normal wear and tear." In its current form the bill addresses "normal wear and tear" such that in reasonable fact finding a judge or jury can consider it on a case-by-case basis. He suggested that trying to get to something more specific can definitely be problematic.

3:30:51 PM

REPRESENTATIVE ISAACSON pointed out that the term has been defined in other states and other states have explored the term, such as California and New York. He explained that a body of work can be relied on since courts rely on precedent.

CHAIR OLSON stated that Mr. Sniffen "carries the most weight" and it is less important what other states have done.

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 282.

[3:32:35 PM](#)

REPRESENTATIVE REINBOLD moved to report the proposed committee substitute (CS) for HB 282, Version 0, labeled 28-LS0930\0, Bullock, 2/22/14, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 282(L&C) was reported from the House Labor & Commerce Standing Committee.

[3:33:06 PM](#)

The committee took an at-ease from 3:33 to 3:36 p.m.

SB 159-AIR AMBULANCE SERVICES

[3:36:02 PM](#)

CHAIR OLSON announced that the next order of business would be SENATE BILL NO. 159, "An Act relating to air ambulance service providers, air ambulance membership agreements, and regulation of air ambulance service providers and air ambulance membership agreements by the division of insurance; and providing for an effective date."

[3:36:08 PM](#)

SENATOR BERT STEDMAN, Alaska State Legislature, as sponsor of SB 159, explained that many rural Alaskans are trying to get medical services quickly, especially in smaller communities. He said he has been working with Representative Munoz on this topic and between them their districts cover most of Southeast Alaska.

[3:37:24 PM](#)

CHRISTIE JAMIESON, Staff, Senator Bert Stedman, Alaska State Legislature, stated that SB 159 would allow all life-saving air medical transport companies such as Airlift Northwest to provide air care membership program coverage for air ambulance services. The purpose of a membership program is to cover all out-of-pocket expenses that may not be covered by a primary payor. The cost to transport patients has been estimated to range from \$70-\$100 thousand per flight. The air care membership program was discontinued by the Division of Insurance (DOI), who deemed the membership program no longer exempt from insurance regulations

due to Airlift Northwest's restructuring. Presently, Airlift Northwest has been allowed to honor existing memberships, but it cannot offer any renewals. Airlift Northwest, a Seattle-based provider of life-saving air medical transport services, has offered the popular air care membership program to Southeast Alaska residents since 2009 and approximately 3,000 Southeast Alaska households are enrolled in the membership program.

MS. JAMIESON related that air medical transportation insurance is expensive and may not cover all the costs. She stated the purpose of a membership program is to cover all out-of-pocket expenses, including deductibles and co-insurance amounts not covered by the primary payor. Thus, as an "air care" member, the insurance company would receive the bill. Airlift Northwest is secondary to all payors and works directly with the insurance company for claims processing. The "air care" program directly helps fund Airlift Northwest so it can transport critically ill or injured patients to hospitals for care not locally available. She said that SB 159 will exempt air ambulance services from the state's insurance code, thereby allowing Airlift Northwest to continue offering the "air care" program to Alaskans.

[3:40:03 PM](#)

REPRESENTATIVE SADDLER asked for the approximate cost per household of the current 3,000 members for the secondary air transport insurance.

SENATOR STEDMAN answered the cost is approximately \$100 per year and offered his belief that the cost is per household.

[3:40:51 PM](#)

REPRESENTATIVE SADDLER asked whether Airlift Northwest is the only company affected by this bill.

SENATOR STEDMAN answered that was his understanding.

REPRESENTATIVE MILLETT offered her belief that Anchorage offers similar service.

MS. JAMIESON commented that Apollo [MedFlight] offers service in Fairbanks.

[3:41:49 PM](#)

SHELLY DEERING, Alaska Regional Manager, Airlift Northwest, testifying in support of SB 159, stated that Airlift Northwest has offered services in Alaska for 21 years. She commented she is also a 21-year Alaska resident. She explained that Airlift Northwest seeks to provide Alaskans the ability to participate in subscription membership programs for air medical transportation. Airlift Northwest has successfully transported patients for 32 years and is currently staffed with 19 nurses and pilots who live and work in Juneau. Airlift Northwest has sold air care memberships in Alaska from 2008 until November 2013. Currently, Airlift Northwest has 4,066 members, including the previously mentioned households, but it was informed in 2013 to discontinue its membership due to restructuring, she said.

[3:43:22 PM](#)

MS. DEERING reported that [SB 159] would resolve the discontinuation allowing any air ambulance provider to offer this membership program. It would also give appropriate oversight authority to the Alaska Division of Insurance. She stated that residents require air medical transportation when a hospital or first responder has determined they are critically ill or injured. This is a time filled with urgency, stress, and anxiety, so not worrying about transport costs is one less thing families need to worry about. She reported that the cost for the program is \$99 per year per household.

[3:44:18 PM](#)

REPRESENTATIVE SADDLER asked for clarification on the business structure.

MS. DEERING answered that Airlift Northwest is a state tax exempt entity under the University of Washington (UW) medical system in Seattle.

REPRESENTATIVE SADDLER asked whether Airlift Northwest operates elsewhere.

MS. DEERING answered that Airlift Northwest also operates in Washington. In further response to a question, she said that it has two fixed-wing aircraft in Alaska and two fixed-wing aircraft and four helicopter aircraft in Washington; Airlift Northwest uses Learjet 31-A and Aero Commanders.

[3:45:16 PM](#)

MS. DEERING stated that the company was founded in 1983 after Airlift Northwest's medical director, Dr. Michael Copus, was unable to transport three critically burned children from Sitka. He had decided that if patients couldn't get to care, it was possible to bring care to patients and transport them to facilities.

CHAIR OLSON offered his belief that the helicopters allow them to pick up medical crews from five hospitals.

MS. DEERING agreed. At the time, Providence Medical Center, Seattle Children's Hospital, Harborview, University of Washington, and Virginia Mason Hospital and Medical Center in Seattle were part of the consortium that started Airlift Northwest.

REPRESENTATIVE JOSEPHSON asked for clarification between a medical service and benefit.

MS. DEERING deferred to Chris Marten.

[3:46:47 PM](#)

The committee took an at-ease from 3:46 p.m. to 3:50 p.m. due to audio issues.

[3:50:58 PM](#)

REPRESENTATIVE JOSEPHSON understood that part of the reason for the change was finding that Airlift Northwest was not offering clients a "medical service" but offered a "benefit."

CHRIS MARTEN, Executive Director, Airlift Northwest, stated that Airlift Northwest was previously designated a 501(c)(3) non-profit organization so it operated separately from the University of Washington system. Since Northwest Airlift is now part of the university, the company no longer fit any of the criteria to be a membership program. The Division of Insurance (DOI) suggested that it become its own insurance program; however, Airlift Northwest is an air medical service and not an insurance company. The company provides membership benefits so clients don't have to pay out-of-pocket expenses; however, he clarified that Airlift Northwest is not an insurance company. At that point, the DOI advised Airlift Northwest to cease and desist, which is when the company sought a statute change so it could sell memberships again.

3:53:25 PM

REPRESENTATIVE JOSEPHSON asked why the stoppage was ordered.

MARTIN HESTER, Deputy Director, Division of Insurance, Department of Commerce, Community, and Economic Development (DCCED), stated that the division enforces AS 21.87.010 and it came to the its attention that Airlift Northwest had restructured its air care program. He related that the statute requires the entity to be a municipality, a non-profit medical service corporation, or a non-profit association. The division consulted with Department of Law and determined the company no longer met the three criteria, and so it did not qualify for the exemption under the 2008 statute.

3:54:54 PM

KARLA HART said she is an Airlift Northwest member and would like to continue to be a member. She initially bought a membership at the suggestion of her primary care nurse who had observed effects and burden on families whose members were airlifted, but the families did not have adequate coverage. She subsequently investigated the membership and found that paying \$99 for a service that is really valuable to the region was a small price to pay and no more than the cost of a membership to her public radio station or other non-profit that she supported. She said many of her family and friends have purchased the service but have never needed to use it, although she does know people who have been medevaced. She said some people are still paying for the medevac a decade later. She said that Airlift Northwest provides a real financial assurance. She checked into the private insurance as an acceptable alternative, but found the policy was underwritten by a for-profit company. She expressed concern that the insurance companies had an exclusion in the event a foreseeable need existed for the medevac. The insurance company couldn't adequately answer whether terminal cancer, for example, or a heart stent would be considered a foreseeable need. The Airlift Northwest program doesn't try to cut the bottom line and disallow members, which is why she cares about this bill. She expressed concern that delays in passing SB 159 could cause problems. Since members cannot renew their memberships, anyone suffering a catastrophe would not have coverage and it could cost a substantial amount of money. She urged members to move this quickly. In Washington, universities are considered municipalities, but not in Alaska, so what's at issue is really just the spirit of the law, she said.

[3:59:11 PM](#)

ED ZASTROW offered his support for SB 159. He said that sufficient number of medevac transports occur in Ketchikan that have kept Guardian Air and Northwest Airlift in business. He expressed surprise at the number of airlifts that land and take off from Ketchikan.

[4:00:26 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on SB 159.

[SB 159 held over.]

[4:01:01 PM](#)

The committee took a brief at ease.

HB 288-AIDEA: ARCTIC DEVELOPMENT PROGRAM/FUND

[4:01:42 PM](#)

CHAIR OLSON announced that the next order of business would be HOUSE BILL NO. 288, "An Act creating the Arctic infrastructure development program and fund in the Alaska Industrial Development and Export Authority."

[4:02:14 PM](#)

REPRESENTATIVE REINBOLD moved to adopt the proposed committee substitute (CS) for HB 288, labeled 28-LS1139\N, Martin, 3/14/14, as the working document [Version N].

CHAIR OLSON objected for the purpose of discussion.

[4:02:36 PM](#)

REPRESENTATIVE HERRON, speaking as prime sponsor of HB 288, stated that the Arctic coastline runs from Canada across the North Slope, down Western Alaska to Bristol Bay, to the end of the Aleutian Chain. However, only one deep draft port exists, Dutch Harbor, within that coastline in the middle of the Aleutian Islands. He said that with the emerging Arctic, vessel landings places are limited, whether vessels are being used for oil response, search and rescue, or resource extraction. This bill has proposed to develop a funding mechanism similar to the

sustainable energy transmission and supply development fund (SETS) authored by Representative Millett. He explained that HB 288 would expand AIDEA's [Alaska Industrial Development and Export Authority] "tool bag" by extending the same authority for loans, loan guarantees, bonds, bond guarantees currently in SETS, which allows the state to develop the infrastructure under its own terms. It will extend AIDEA's ability to ensure project obligations and loans, defer principal payments and capital interest, offer financing terms up to 40 years, enter lease agreements, enter into sales lease back agreements, transfer agreements, and other agreements. He stated that making financing available will empower communities and attract a global pool of investment as an alternative to the traditional grant model. Currently, an estimated \$100 billion in global capital is "looking for a home in the Arctic." Instead of the Alaska Permanent Fund Corporation investing in projects in the Lower 48, private investments want to invest in Alaska and are recommended by the Arctic Policy Commission. In order to help provide advancing economic development and a healthy environment an infrastructure development fund is critical, he said.

4:05:57 PM

GRAHAM JUDSON, Staff, Representative Bob Herron, Alaska State Legislature, referred to the sectional in members' packets. He referred to page 1, line 5 through page 2, line 19, Section 1, AS 44.88.088(a), which establishes that the Alaska Industrial Development and Export Authority shall adopt a policy for payment of a dividend from the Arctic Infrastructure Development Fund (AIDF), AS 44.88.810, to the state each fiscal year. The dividend may not be less than 25 percent or more than 50 percent of the net income of the fund. This puts the AIDF in line with AIDEA's revolving fund and sustainable energy transmission and supply development fund (SETS).

4:07:00 PM

MR. JUDSON stated that Section 2 defines "net income" for the purposes of this chapter and the definition now includes the AIDF. Section 3 defines "unrestricted net income" for the purposes of this chapter and the definition now includes the AIDF. He said Sections 4-8, page 3, line 8 thru page 5, line 6, will make conforming changes to include loans from the Arctic Infrastructure Development fund (AIDF) to existing statutes regarding interest rates and other requirements for loans from funds managed by AIDEA. These changes place the same requirements on the AIDF that currently exist for the revolving

fund and the SETS fund. Section 9, AS 44.88.159(g), adds the AIDF to the types of programs to pay borrowers of loan participation the AIDEA may establish. This places the AIDF in parallel with the existing revolving fund and SETS fund.

[4:08:01 PM](#)

MR. JUDSON referred to Section 10 which establishes the Arctic Infrastructure Development Program and fund. The purpose of this fund is to provide financing for Arctic infrastructure development and defines the fund's structure, including direct appropriations made by the legislature and money or assets transferred to the fund by AIDEA from any other fund controlled by AIDEA. These transfers would require a majority vote by the members of AIDEA, which is essentially an action by its board of directors on unrestricted loan repayments, interest, other income earned by the fund, and investment or assets of the fund. This section allows separate accounts to be established within the fund and managed by AIDEA and ii establishes the AIDF and clarifies that it is not part of the revolving fund, he said.

[4:08:54 PM](#)

MR. JUDSON referred to page 6, lines 17-19, of Section 10, which clarifies that the fund will be used for Arctic infrastructure development. He referred to page 6, lines 20 thru page 7, line 14 of section 10, which establishes the powers and duties of the AIDEA regarding the AIDF. This section mirrors the powers and duties of the revolving fund and the SETS fund. It also allows AIDEA to use the AIDF to finance Arctic infrastructure development, ensure project obligations, guarantee loans or bonds, establish reserves, and acquire real or personal property by purchase, transfer, or foreclosure. He said it allows AIDEA to defer principal payments or capitalize interest on Arctic infrastructure development, enter into lease agreements, sales-lease-back agreements, build-operate-transfer and operate-transfer agreements or similar financing agreements and to enter into agreements with government entities for the transfer and control of infrastructure, rights-of-way, facilities, and studies, allows contract services, allows the fund to borrow money or issue bonds, and directs AIDEA to establish regulations to implement the fund.

[4:10:07 PM](#)

REPRESENTATIVE HERRON explained that this section is "a must have" for the other body, since it's important for AIDEA to have

the authority, but if it goes beyond the limitations outlined, it must come back to the legislature for approval.

[4:10:34 PM](#)

MR. JUDSON continued with Section 10, page 7, lines 15 thru page 8, line 1, which establishes the limitations on financing in the AIDF. It provides that legislative authority would be needed to go beyond the limitations set forth in this section. The AIDEA may not use the AIDF to make a loan for more than one-third of the capital cost of the development; a loan guarantee if the amount of the guarantee exceeds \$20 million, or financing for more than 40 years. Notwithstanding (a) of this Section 10, legislative approval, AIDEA can use the fund as security for a bond guarantee and AIDEA may provide financing, loans, or bond guarantees for the development and support of fisheries in the Arctic provided the amount of any financing, loan, or bond guarantee is no less than \$7 million.

MR. JUDSON said it limits financing, loans, or bond guarantees for fishing vessels, quota shares or individual fishing quotas to those used within a federally managed fishery.

[4:12:12 PM](#)

REPRESENTATIVE MILLETT asked why add the fishing vessels, quota shares, or individual fishing quotas to those used within a federally managed fishery since a revolving loan fund for vessel enhancement exists, although she did not recall anything that would help fishermen purchase individual quotas or shares of individual fishing units.

REPRESENTATIVE HERRON responded that this language was suggested by a legislator in the ther body. He suggested that conversations were held with AIDEA. He said that Mr. Judson was "shadowing" the Senate version of the bill.

[4:13:23 PM](#)

MR. JUDSON said this language would allow AIDEA to finance loans with the goal to increase ownership of fishing vessels and quota shares in Alaska.

REPRESENTATIVE REINBOLD expressed her concern. She said she has a bit of a "hardship" with that provision.

REPRESENTATIVE MILLETT clarified her concern. She said she was a commercial fisherman for 25 years and has used every fishing opportunity, grant, and low interest loan for fisheries. She questioned the need for another program and was uncomfortable with the potential amount of the loan. She said that she has never seen one for the purchase of quota shares or individual quotas and characterized it as being able to stack the deck.

CHAIR OLSON pointed out that concerns can be brought to the sponsor since he planned to hold the bill over.

4:15:30 PM

MR. JUDSON referred to page 8, to Section 11, which defines "Arctic" in a geographical boundary similar to the boundary set forth in the Arctic Region Policy Act (ARPA), north of the Arctic Circle, north and west of the boundary formed by the Porcupine, Yukon, and Kuskokwim rivers, and all contiguous seas including the Arctic Ocean, the Beaufort, Bering and Chukchi Seas, and the Aleutian chain. Finally, the language on page 8, lines 7-19, defines "Arctic Infrastructure development."

REPRESENTATIVE HERRON suggested that it may be helpful to hear others testify.

4:16:49 PM

REPRESENTATIVE JOSEPHSON referred to Section 11, paragraph (19), and asked how expansive "Arctic Infrastructure development" is. He asked if the Anchorage port could be seen as something that furthers or supports the development of an Arctic facility.

MR. JUDSON answered yes; he did not believe there were any limitations to what supports the Arctic.

REPRESENTATIVE HERRON commented that the City of Seward has provided a letter of support since they have been and continue to place themselves as a service port for all vessels in Alaska. He said that all items that support development of the Arctic should be included.

4:18:05 PM

REPRESENTATIVE JOSEPHSON asked for the definition of facility in that same paragraph.

MR. JUDSON answered that was a change from the original bill, and the use of facility was to reduce the list. He said it is somewhat open.

[4:18:57 PM](#)

REPRESENTATIVE JOSEPHSON asked what type of project or facility that might be "spawned." He asked if it would it be a harbor in Point Hope or Point Lay or something in the Interior.

REPRESENTATIVE HERRON answered that is the key and what will be needed first, whether that would be a safe refuge or harbor, or harbors and ports to support oil response. He said obviously, most of the funds will be private sector so identifying which port or resource makes the most sense. He said it is not a race, but what makes sense and what is important to Alaska. He likened it as being similar to the port authority legislation, elsewhere in the legislature, that is a holistic plan. And this language tries to balance this for the good of Alaska rather than it being the community who has the strongest leverage.

REPRESENTATIVE SADDLER referred to page 8, line 19, to the language "used in support of a fishery in the Arctic" which could be Port of Anchorage as broad as possible or if it will be at least 50 percent aimed at a fishery in the Arctic.

REPRESENTATIVE HERRON deferred to Mr. Mark Davis, Alaska Industrial Development and Export Authority.

[4:21:23 PM](#)

REPRESENTATIVE JOSEPHSON referred to a map in members' packets and asked how the feature was achieved.

REPRESENTATIVE HERRON related that Congress defined the Arctic region, but the Bering Sea is the key to the Arctic since warm water goes in and cold water goes out. He characterized the Bering Sea as Western Alaska and the Aleutian's garden, just like the Beaufort and Chukchi Sea is their garden. The reason for the boundaries is that in the 1950s, President Eisenhower had the idea that the northern part of Alaska couldn't pay for itself but the southern part of the Railbelt and the Tongass forest could. Thus the PYK line, named after the Porcupine, Yukon, and Kuskokwim rivers was a result of Senator Butrovich and Mr. Atwood objecting to a territory above the PYK line. Ultimately, the Congress defined the Arctic within those

boundaries, which [was the basis for Section 10 of the Alaska Statehood Act, which U.S. Senator Ted Stevens wrote].

[4:24:17 PM](#)

MYRON NANENG, Sr., President, Association Village Council Presidents, stated that the association represents 56 villages on the Yukon Kuskokwim Delta. He said he is testifying in support of HB 288 because it is considered an economic opportunity for the region, which is economically depressed. He thanked Representative Herron for the bill. He hoped the committee would support it since it will make a difference for the youth in the region.

[4:25:26 PM](#)

REPRESENTATIVE MILLETT referred to page 8, lines 15-17, and the reason for the language. She wondered why they would be giving loans for fishing vessels and fishing quotas. She said she didn't object to the construction or rehabilitation or expansion of a plant or facility; however, she expressed concern about financing a fishing vessel that would fish in the Bering Sea or the Arctic. She noted other loan programs exist and the reason for such a "high mark" for the Arctic.

[4:26:58 PM](#)

MARK R. DAVIS, Deputy Director, Infrastructure Development, Alaska Industrial Development and Export Authority (AIDEA), Department of Commerce, Community & Economic Development (DCCED), referred to page 7, which contains the concept that none of the loans can be less than \$7 million. He said that AIDEA did not want to interfere with the existing programs, but in particular, for quotas, there isn't any program to provide for financing. He hoped that AIDEA would be poised to work with the banking community to provide for a quota and repatriate, if possible, back to the State of Alaska.

[4:27:31 PM](#)

REPRESENTATIVE MILLETT asked if Alaskan companies could benefit.

MR. DAVIS answered yes; He thought the private public partnerships (P3) realm that AIDEA works in represents a lot of capital. He envisioned a concerted business plan that may involve the restructuring of a fishing company, but he did not think it would happen very often.

[4:28:11 PM](#)

CHAIR OLSON asked whether this would apply to vessels documented outside Alaska but fishing in northern waters.

MR. DAVIS answered that it would, which is why AIDEA would likely want to have the collateral for the loan now plus the quota shares restricted to uses in the Alaska fisheries; thus, it would tie the two together.

CHAIR OLSON asked whether those fishermen have access to other programs and may compete against Alaskans.

MR. DAVIS said he doesn't think so, but the loan is set at a \$7 million minimum since AIDEA did not want to interfere with existing programs the state has for fisheries.

[4:29:12 PM](#)

REPRESENTATIVE MILLETT related her understanding this could help out-of-state large companies purchase quotas.

MR. DAVIS pointed out that the loans would have to be consistent with AIDEA's other statutes, which require AIDEA to alleviate unemployment in the state and be concerned with programs in the state. Thus, AIDEA would need a nexus to Alaska in order to make loan.

[4:29:49 PM](#)

REPRESENTATIVE MILLETT asked whether AIDEA follows the loan and tracks the number of Alaskans employed by the vessel during the course of the loan.

MR. DAVIS answered yes; that with the current loan participation program, which lends to real estate, AIDEA does precisely that, as well as tracking in the SETS fund.

[4:30:19 PM](#)

REPRESENTATIVE MILLETT related a scenario in which a company purchases a quota and shares. She asked whether they could in turn the loan to someone else.

MR. DAVIS answered that AIDEA usually does not permit the transfer of any AIDEA loan without written permission with

termination consistent with their statutes. He said that typically AIDEA includes a clause that any transfer without permission would accelerate the loan and it would immediately be due in full with interest.

[4:31:08 PM](#)

REPRESENTATIVE CHENAULT related a scenario in which funds could be used for port expansion at Seward. It would allow Seward to expand its port and bring back fishing vessels that currently are docked in Seattle and Washington areas. It would bring boats back to Alaska and Alaskans would work on the boats. He asked whether that is correct.

MR. DAVIS answered yes; AIDEA has been in contact with various ports, including the Port of Seward. He said that AIDEA is very interested in wanting to create more jobs in the local port and the fishing fleet is very labor intensive.

[4:32:18 PM](#)

REPRESENTATIVE SADDLER wondered if a company from the Lower 48 could obtain an AIDEA loan from the AIDF and generate work for Alaskans, but not necessarily owned by Alaskans.

MR. DAVIS answered yes; AIDEA can make loans to companies domiciled outside Alaska, but the economic impact would need to be in the state in order for them to make the loan, which is also under AIDEA's current statutes.

[4:33:01 PM](#)

REPRESENTATIVE SADDLER asked how he anticipated the loan funds to be used and whether it is for large infrastructure, likely to be more for quotas.

MR. DAVIS offered his view, which is that this would be used for large infrastructure. He reminded members he is the director of infrastructure for AIDEA. He has been working on large projects for roads to resources (R2R). He thought this would primarily be used for ports. It does have the quota portion, but he envisioned this would be used for infrastructure for ports, such as the Port of Seward to try to keep vessels in our waters and jobs in Alaska.

[4:33:53 PM](#)

REPRESENTATIVE REINBOLD expressed her concern on page 7, lines 27-31; and on page 8, lines 15-19. She offered her support for infrastructure in the Arctic, but not for fishing vessels given the tight budget.

MR. DAVIS answered that traditionally how the industries work in the Arctic for the Bering Sea fleet is that the lending goes to the ship which serves as collateral for the quota. He said the AIDEA tries to track the current commercial practice in the fleet. He related the goal is to tie the vessel to the Alaska based loan and the vessel would be kept in Alaska waters in the off season, but would fish in Alaska's waters during the season.

REPRESENTATIVE REINBOLD reiterated she supports large infrastructure, but she found this to be "a real stretch."

[4:35:30 PM](#)

REPRESENTATIVE HERRON responded that he wants this infrastructure to be solid assets and not apply to fishing. He related his understanding that Seward plans to expand, and other ports typically used by the fishing fleet will provide the nexus. He asked if this is the nexus Mr. Davis envisions.

MR. DAVIS answered that is correct. For example, he related that AIDEA is an owner of the Ketchikan Alaska Shipyard and recently that shipyard built the only vessel in the fleet that is kept in Alaska. He stated that AIDEA would like more vessels to be built, maintained, and kept in Alaska in the off season, which would generate more income for the state from the fishing fleet. He offered his belief that most of the fleet exits the state at the end of the season.

[4:36:49 PM](#)

REPRESENTATIVE SADDLER said in the last couple of years that AIDEA's mission, funding levels, and loan capacity has expanded. He asked whether there are any limits to AIDEA's growth, mission, and magnitude.

MR. DAVIS pointed out that he worked with the legislature on the SETS fund and this bill tracks the SET funds. Thus, the idea for expansion is that AIDEA would have specialized funds and as with the Interior Energy project, the legislature could provide AIDEA with additional bonding or funds to be used for those purposes. In fact, that's the reason there isn't any funding associated with it. He said he considers it a joint venture

between AIDEA and the legislature to decide how to deploy the state's resources.

[4:38:00 PM](#)

REPRESENTATIVE SADDLER asked whether AIDEA supports the bill.

MR. DAVIS answered that AIDEA supports the bill so long as it contains the provision in subsection (d) that AIDEA can't make the loans for less than \$7 million. He referred to page 7, lines 16-17, which states that AIDEA "may not" use the infrastructure fund, but on line 27, it reads, "may not provide" which creates a double negative. Thus, AIDEA would propose a slight change in the language, but he supports AIDEA not making loans in the federally-managed fishery below \$7 million. He stated that AIDEA would like to preserve other programs already in existence.

[4:38:57 PM](#)

REPRESENTATIVE JOSEPHSON referred to page 7, lines 24-26, to subsection (c) and asked for the intent of this language.

MR. DAVIS answered that subsection (c) only becomes effective if there were funds in the fund; however, until it is funded then nothing in the Arctic infrastructure development fund could be used for security as a bond. Again, as with the Interior Energy project, this new fund would be used in conjunction with a decision by the legislature to fund it.

[4:39:51 PM](#)

REPRESENTATIVE JOSEPHSON asked who AIDEA envisions would be an investor. He related a scenario in which Alaska developed a port at the deepest water location in the Arctic, in which loans are made not to exceed one-third for that project. He asked whether the entity would be a company like Crowley Maritime.

MR. DAVIS answered that AIDEA would be looking at large infrastructure funds, perhaps pension funds that invest in infrastructure. For example, a potential partner in the Interior energy project is a pension fund that invests in infrastructure. He believed that other infrastructure funds would also be interested assuming the port would generate the revenue to pay off the debt.

[4:41:02 PM](#)

REPRESENTATIVE JOSEPHSON asked for further clarification. He asked whether investors would use their pension dollars.

MR. DAVIS answered that in the Interior energy project, which is a proposed trucking operation with an LNG plant on the North Slope to truck to Fairbanks. The potential partner approved by AIDEA on January 14 is a pension fund that invests in infrastructure.

REPRESENTATIVE JOSEPHSON was unsure that is how he would spend his pension dollars.

[4:41:32 PM](#)

RON LONG, Assistant City Manager, City of Seward, testified in support of HB 288, Version N. He heard Seward mentioned several times today, but in all fairness, this bill could apply equally to several other ports around the state and represents an effort to build the infrastructure to support development in the Arctic. He indicated that this effort will take place in terms of staging from somewhere outside the region described in Section 11 until sufficient infrastructure can support it. He said he did not want to see the entry level position be located in Tacoma or Bellingham, but to be in Alaska. He said he supports the language in the last part of Section 11. He referred to the fisheries and offered his belief that AIDEA has sufficient expertise to ensure that the economic impacts accrue to Alaska, whether it is through a tiered entry system that makes eligibility to Alaskan Corporations first, then to outside entities if sufficient funds exist. He emphasized his hope that the economic impact will accrue to Alaskans whether it is to the local economy or the state treasury. Although those approaches may be different ways of measuring success, "we're all Alaskans and we can all benefit from it.

[4:43:36 PM](#)

STEVE TRIMBLE, President, Trimble Strategies, stated he is testifying today in support of HB 288, a bill that would create an Arctic infrastructure development fund within AIDEA. He read from a prepared statement, as follows [original punctuation provided]:

The Arctic is the future of Alaska, and we must invest in infrastructure now if we are to have a place of meaning in the future of the global arctic frontier.

Industry has responded to the call of public investment through the SETS fund and the time is now to further additional public--private investments within Alaska. The era of "easy money" is approaching its end in our state and the age of "smart money" is now upon us.

Enabling AIDEA through the creation of the Arctic Infrastructure Program/ Fund and the additional tools that CS Version N for HB 288 provides is an investment in "smart money" for the future of Alaska. I appreciate your consideration in hearing my testimony today in support of HB 288.

[HB 288 was held over.]

[4:45:19 PM](#)

The committee took a brief at-ease.

HB 281-PRESCRIPTION WITHOUT PHYSICAL EXAMINATION

[4:46:25 PM](#)

CHAIR OLSON announced that the next order of business would be HOUSE BILL NO. 281, "An Act relating to prescription of drugs by a physician without a physical examination." [Before the committee was CSHB 281(HSS).]

[4:46:32 PM](#)

REPRESENTATIVE LYNN GATTIS, as sponsor, stated that HB 281 would clarify in statute that physicians may not be sanctioned for dispensing or administering prescription medications without a physical exam of the patient. This practice is called "telemedicine" and is medical care delivered by primary care physicians, licensed within Alaska. Anyone needing medical care would be a candidate for this system. She highlighted some benefits of telemedicine for working mothers with sick kids, rural homesteaders, or employees who cannot afford to take time off from work. Under HB 281, patients could obtain over the phone or online consultations in which physicians can diagnose their ailments and provide prescriptions but stipulates that physicians cannot prescribe controlled substances. Some benefits of telemedicine include convenience for the patient and affordability, with an average cost of \$40 for a consultation fee rather than an emergency room visit that could cost \$1,000

or more. In fact, 25 percent of the emergency room visits are for non-emergency care, she said.

4:48:05 PM

REPRESENTATIVE GATTIS related a scenario in which she personally waited at the emergency room for hours to obtain after hour care. She said her physician shared his knowledge of electronic applications for use on a smart phone and was excited to hear about her telemedicine bill. She offered her belief that it is time for telemedicine. She summarized that this bill comes down to cost and access. This bill does not replace the primary care provider (PCP) relationship; however, in requesting consultation a patient enters into a doctor/patient relationship. If a patient does not have a PCP, he/she may designate a telemedicine provider as such. She highlighted some issues previously discussed in other committees including patient privacy.

4:49:06 PM

REPRESENTATIVE GATTIS said the health insurance portability and accountability act (HIPPA) privacy laws apply to telemedicine providers the same as with "brick and mortar" offices. Telemedicine already exists and is being conducted in the state by the Alaska Native Tribal Health Consortium (ANTHC) and the Veterans Administration. Additionally, companies such as Home Depot and Costco use telemedicine as part of their employee plans. This reinforces that telemedicine is needed and is being used. Typically, the usual conditions treated include acute respiratory illness, skin problems, abdominal pain, back, and joint problems. These practices can favorably impact access to care in both rural and urban settings. In fact, with 20 percent of Alaska's population residing in rural areas, it is imperative that access to routine care be as quick and economical as possible. She has held conversations in her district and many of her constituents already support telemedicine.

4:51:07 PM

REPRESENTATIVE SADDLER said he did not see telemedicine specifically listed in the bill.

REPRESENTATIVE GATTIS suggested that telemedicine will specifically be clarified in an amendment.

REPRESENTATIVE SADDLER said that his wife works in public health and has been working in telemedicine for 12 years or longer.

REPRESENTATIVE HERRON appreciated the sponsor bringing this up. He offered a belated thank you to the late U.S. Senator Ted Stevens, Alaska, who had raved about telemedicine in the tribal setting, including the benefits to mental health, dental health, and therapists. Furthermore, a pilot program in a different bill will try telemedicine between the medical examiner and regional hubs. He touted telemedicine by video as a means to provide services less expensively. He said a telemedicine connection between patient and doctor is much less expensive than using the emergency room.

CHAIR OLSON answered that the Kotzebue program has been a national model and has been on the cutting edge for years.

[4:53:51 PM](#)

REPRESENTATIVE MILLETT asked whether nurse practitioners will be able to use telemedicine.

REPRESENTATIVE GATTIS answered no; that she followed the same guidelines as if patients walked into their doctor's offices. She explained that if a nurse practitioner works under a doctor, it would work the same way under the telemedicine model. She characterized it as being a connection between the patient and his/her provider.

REPRESENTATIVE MILLETT questioned this since she is recipient of ANTHC and understands that nurse practitioners work under physicians and can prescribe antibiotics.

REPRESENTATIVE GATTIS answered that the federal exemption is a little different than this model.

[4:54:51 PM](#)

REPRESENTATIVE JOSEPHSON asked for clarification on how this would work. He envisioned someone picks up the telephone to obtain care. He asked whether telemedicine is a business.

REPRESENTATIVE GATTIS agreed telemedicine is a business, noting that doctor's offices are also businesses. She related a scenario to illustrate that mothers would not need to take kids to the doctor's office and wait, but would simply phone the doctor and provide specific details, such as the temperature and any allergies. The doctor would assess the information provided, perhaps including reviewing a telephonically submitted photo and

make a diagnosis or ask the patient to come in if the doctor believes the patient may need specialist.

4:56:49 PM

REPRESENTATIVE JOSEPHSON asked whether this would be an enterprise in which a brick and mortar practitioner breaks away or if this is a "doc in the box" by phone only.

4:57:11 PM

REID HARRIS, Staff, Representative Lynn Gattis, Alaska State Legislature, in response to Representative Josephson, explained that the bill will allow doctors already licensed in Alaska with a "brick and mortar" business to engage in telemedicine. However, there are some large national corporations that employ doctors within the state, without any outsourcing. Thus, the bill would allow these corporations to operate in the same way other doctors do. For example, a primary care physician could set up telemedicine with per charge fees or a doctor could contact "Teladoc" or some other telemedicine corporation and ask the it to run the doctor's telemedicine portion of the business.

4:58:12 PM

REPRESENTATIVE JOSEPHSON recalled previous testimony before another committee that some medicine could be prescribed for back pain. He asked for clarification on how to avoid prescription abuse with telemedicine, noting in his law practice he encountered such cases. He suggested perhaps prescription contracts were necessary. He asked how to avoid patients calling five telemedicine practices in a day to fraudulently obtain drugs.

REPRESENTATIVE GATTIS answered that this bill does not address chronic back pain, and telemedicine is limited to minor issues. She deferred to Dr. DePhillips, Teladoc, to answer more fully.

CHAIR OLSON listed testifiers who have signed up for questions, including telemedicine doctors and department staff from the Department of Commerce, Community & Economic Development.

REPRESENTATIVE GATTIS related that a number of people have shown an interest in the bill. She offered her belief that the practice of telemedicine needs to be clarified.

5:00:32 PM

HENRY DePHILLIPS, Physician, Teladoc, answered that no Drug Enforcement Administration (DEA) controlled substances are allowed to be prescribed under the bill. Most telemedicine companies that provide services in all 50 states, including Teladoc, prohibit prescribing any DEA controlled substances including narcotics and benzodiazepines. In fact, most telemedicine drugs prescribed for primary care health tend to be for sinusitis, bronchitis, and urinary tract infections and are medicines that tend to be generic such as amoxicillin or cough suppressants, which are not prone to abuse. Although Teladoc occasionally receives requests for narcotics, once these people find they are not successful in obtaining the drugs, Teladoc typically will not hear from these people again

5:02:00 PM

REPRESENTATIVE JOSEPHSON referred to a memo he saw two months ago with respect to an earlier version in the Senate for SB 80, in which the state medical board opposed the bill since it tends to redefine the practice of medicine, which has at its core the physical examination of patients.

DR. DePHILLIPS provided history that he thought would best answer this. In the 1990s, Internet scams occurred and people could obtain prescriptions online without any doctors being involved. The result was that all the state medical boards enacted a "prior in-person requirement" which drove most of the Internet businesses out of business. However, 15 years later, patients can be safely connected with a physician, which is what telemedicine is all about. Several medical boards have been resistant to telemedicine for two reasons. First, the medical boards, including the Alaska State Medical Board, have been concerned about patient care going to physicians who reside outside of their state. He understood that concern; however, he advised that his company's business model calls for physicians to be located in Alaska. These doctors are residents, who are licensed in Alaska to provide care for Alaskans. That has been Teladoc's business model, thus, the bill addresses that concern.

DR. DEPHILLIPS related the second concern, which is that the medical boards have expressed concern about patient safety since the boards believe that not seeing the patient in person represents an unsafe encounter. He also understood this concern. However, he said he is a board-certified family physician who has practiced medicine for ten years prior to moving to the telemedicine industry. The data does not support

the concern. He said, "At least in our company's experience. We're now coming up this quarter on one-half of one million telehealth consults around the 50 states." Furthermore, Teladoc covers the liability insurance for all 50 states of network physicians and has never had a liability claim. He concluded that if you put good guard rails around the program, it will work. He outlined the elements needed for telemedicine, including using safe prescribing habits, using established clinical practice guidelines, having a strong quality assurance program, and treating common uncomplicated medical problems. He related that his company has all of this, which he suspected other telemedicine companies also have, too.

5:05:02 PM

DR. DEPHILLIPS said he is testifying today because the Alaska State Medical Board has been reaching out and censuring doctors who work for telemedicine companies who prescribe medications without a prior in-person visit. He stated that Teladoc initially attempted to work with the Alaska State Medical Board, but the board would not "budge" on that issue; hence, Teladoc has turned to a legislative solution. Both Representative Gattis and Senator Dyson, as sponsors, strongly believe that telehealth will benefit Alaskans. He noted clear documentation that telemedicine will increase access, especially to those who do not currently have a primary-care physician relationship. The RAND Corporation, a non-profit organization, conducted a study independent of Teladoc that has helped to demonstrate that aspect. Certainly, it is very clear that medical costs are reduced by telemedicine since one of the frequent alternatives to a telemedicine consult is a visit to the emergency room. He offered that as telehealth consults go up for employees, emergency room costs for inappropriate emergency room visits actually are reduced over time.

5:06:12 PM

REPRESENTATIVE REINBOLD asked where Teladoc is located.

DR. DEPHILLIPS said that he works out of Nashville, Tennessee, and his company operates nationwide, with more than half the company serving remote areas. In response to a question, he answered that he was aware that telemedicine occurs in Alaska through the Indian Health Service, [an agency within the U.S. Department of Health and Human Services, responsible for providing federal health services to American Indians and Alaska Natives] and the U.S. Department of Veterans Affairs (VA).

5:06:44 PM

REPRESENTATIVE REINBOLD said it is hard to argue with telemedicine due to the benefits and some significant cost savings and people can see the benefits. However, she has worked in the health care industry for nearly two decades. She said, "This is really alarming to me - this bill. Telemedicine cannot replace a patient/doctor interaction."

REPRESENTATIVE REINBOLD noted that she did not see anything in members' packets from the [Alaska State] Medical Association, the Dental Association, or the Board of Pharmacy. The State Medical Board opposes the bill. She emphasized a need to hear from insurance companies. She expressed concern about the risks, about malpractice aspects since so much care occurs in telemedicine without any physical assessment of patients.

5:08:17 PM

DR. DEPHILLIPS said the Alaska [State] Medical Association discussed telemedicine with his organization. He related his understanding that ASMA is in agreement with the terms of the bill. His company markets telemedicine as an option only when it isn't possible for patients to reach their own primary care physician timely. He emphasized this as being a very important part of the Teladoc's business model. He assured members that his company isn't interested in being the primary care physician (PCP). In addition, Teladoc has many health insurance company clients, including Aetna, who offers telemedicine coverage in many other states that have clear regulatory language to allow it. In terms of patient safety experience, the data is clear. Teladoc provides the liability insurance for several hundred doctors that provide telemedicine and his company falls in the lowest-tier of their premium profile. In the 12-year history of Teladoc, the company has not had any liability claims. Secondly, while the industry has perhaps had more consults, his company has provided nearly 500,000 consults to date. Teladoc uses evidence-based clinical practice guidelines and provides a copy of the consult to the patient's own primary care physician or to the patient's health insurance company so the insurance company care managers can reach out and "hook them up" with a primary care physician. The data is pretty compelling that telemedicine seems to be safe when it is deployed with good "boundaries and guardrails." Thus, it seems to really be additive to the medical system, he said.

5:10:45 PM

REPRESENTATIVE GATTIS said that this clarifies in some ways what is already happening. In fact, some doctors want legislative sanction to clarify some existing practices. She related that she worked with the Alaska State Medical Board in crafting this bill. She pointed out HB 281 considered language suggested by the State Medical Board and employs current technology, including cell phone and application uses; however, HB 281 does not include dentistry. She felt Dr. DePhillips did a good job explaining telemedicine. The bill will clarify what some practices currently provide, relating the federal government already exempts telemedicine for the VA and [IHS]. This bill will bring that type of service to rest of Alaska.

5:12:11 PM

REPRESENTATIVE MILLETT offered to explain how telemedicine has worked in Alaska for Alaska Natives. For example, a person can go to the clinic in King Cove and see a health aide who can provide a prescription that saves lives. She said the telemedicine program within the Alaska Native Tribal Health Consortium (ANTHC) has a broader scope in terms of telemedicine, including using streaming video and electronically sending information back and forth. These practices help keep sick kids healthy since a disincentive exists for those without insurance due to cost of doctor visits. One advantage of telemedicine is that [Alaskans] don't end up paying health care costs for minor issues treated in the emergency room. Instead, these Alaskans can call a telemedicine doctor to treat ailments, such as strep throat. Of course, telemedicine can't be used to treat patients with broken legs, broken ribs, or heart attacks, but it will treat many types of minor medical complaints. She asked whether this bill is modeled after IHS and VA, which provide medicine in an established way.

CHAIR OLSON asked whether that was Dr. DePhillip's health model for Teladoc.

DR. DEPHILLIPS answered that Representative Millett is exactly correct. Currently, physicians are residents and licensed in Alaska, taking care of Alaskans under the two aforementioned federal programs. The State Medical Board in Alaska does not want to allow this practice so some doctors are seeking a legislative solution. He stated that the reality is that HB 281 allows the same Alaska resident licensed physicians to take care of the rest of the citizens in Alaska, who are not in a federal

health program in the same way that the federal health programs provide service. This bill represents "a little bit of a catch up" so all Alaskans can benefit, he said. He has been working in the health care industry for over 30 years and in his experience, if a problem arises, "heads roll" in the health care industry since medicine is high profile, high visibility, and medical liability is a huge issue. No doctor or company wants to be involved with [malpractice], patient safety must come first, and there is pretty good data to demonstrate that [telemedicine] can be done safely.

5:15:39 PM

DON HABEGER, Director, Division of Corporations, Business, and Professional Licensing (DCBPL), Department of Commerce, Community, & Economic Development, stated that he is the director of DCBPL until March 29, 2014. He introduced Sara Chambers, the Operations Manager for DCBPL.

5:16:32 PM

CHAIR OLSON referred to page 1, line 10, of HB 281 to "physician is located in this state" and asked whether it needs to be "licensed" physician.

MR. HABEGER answered that the aforementioned language is inserted in the medical chapter surrounded by a large body of qualification licensing language. In further response to a question, agreed that at first glance he believes that a licensed physician is covered.

5:17:32 PM

REPRESENTATIVE SADDLER said he did not see "telemedicine" explicitly mentioned. He did not see how making a little change in the sanction's section of law does all the things that have been represented for telemedicine. He asked whether this is the only thing in the way of widespread practice of telemedicine.

MR. HABEGER offered to put it in context of what the [Alaska State Medical] board currently does and the approach it takes. He said the board would argue it currently offers telemedicine; however, the board also strongly believes that the patient-to-patient contact is very important. Within the IHS model, a physician is on one end of the line and a health aide is at the other. The difference is that the health aide is knowledgeable about medicine and can observe the patient from a medical

perspective. Under the bill if a health aide is not present, the board cannot sanction a licensee to prescribe drugs.

5:19:07 PM

REPRESENTATIVE SADDLER asked whether other large sections of law envision telemedicine. He reiterated that he is surprised the "one little fix" would make such a big change in the practice of medicine in Alaska.

MR. HABEGER explained that within the context of licensure, the qualifications and the medical examination process for licensure is quite extensive. He said that the [Alaska] State Medical board oversees licensure and the agency just does the processing. He said HB 281 provides a prohibition against bringing sanction [against a doctor] for a telemedicine contact. He reiterated that telemedicine contacts already exist and this change in law simply means that a health aide isn't required to be present at one end. He did not envision a huge expansion under the bill.

REPRESENTATIVE SADDLER commented that it might just be that he is missing something.

5:20:33 PM

REPRESENTATIVE JOSEPHSON said he is curious that this practice already exists. He related a scenario in which a physician in Anchorage prescribes drugs, in which the process would be that the patient calls and describes the symptoms and obtains a prescription. He related that in his own experience, as a patient, that he has never called a doctor unknown to him to obtain a prescription. He asked whether that type of activity is currently occurring in Alaska.

MR. HABEGER said he would withdraw the term "already existing" although telephonic diagnosis does exist. He emphasized that the key is that the board allows a health aid or other practitioner [to prescribe medicine without the patient or physician being present]. In response to a question, he agreed that currently, any health care professional, such as a certified nurse aide (CNA), who has some training [consults with the physician telephonically about the patient and prescribes medicine to treat the patient.]

5:22:05 PM

REPRESENTATIVE JOSEPHSON asked what he thinks of the State Medical Board's position that "we don't like this" when the Alaska State Medical Association says it is okay.

MR. HABEGER referred to earlier comments on the State Medical Board's objection to SB 80. He said the original version of that bill included licensure of out-of-state doctors. When the board met they were soundly against that version. He recalled that the companion bill [SB 80] was later amended. He was not sure [of the board's position on the amended version of SB 80.]

[5:23:07 PM](#)

REPRESENTATIVE JOSEPHSON referred to an email of January 28, 2014, from Deborah Stovern, Executive Director, State Medical Board, that also indicates that the board was concerned about the lack of contact [by the physician]. He recalled Representative Millett's reference to strep throat, noting that it would require a culture to diagnose strep throat. He further recalled when he lived in Kalskag that he had met with a [health care] aide in a cabin who performed a strep culture, presumably calling a doctor in Bethel [to consult]. He characterized it as being "bookends" or a "virtual" contact. He asked how this bill would allow for a culture.

MR. HABEGER said he can't answer that.

REPRESENTATIVE MILLETT offered her belief that it could happen via an application for an iPhone.

[5:24:55 PM](#)

ROBERT LAWRENCE, Physician, Chief Medical Officer, Inmate Health Care, Department of Corrections (DOC), stated that prior to his state work he served the Norton Sound Health Corporation as a family physician and subsequently became the owner and cofounder of a small medical company that used and tested the technology that is before the committee today.

LAURA BROOKS, M.S., Health Care Administrator, Department of Corrections, thanked the committee and the sponsor for working with the DOC. She indicated some wording [in the bill] could potentially impact the way the DOC practices every day.

[5:25:27 PM](#)

MS. BROOKS explained that the DOC was one of the first agencies to start using telemedicine in order to provide improved medical services to inmates in rural areas. She explained that in 1998 the DOC's psychiatrists began using telemedicine. This practice has allowed the DOC to reduce costs since the psychiatrists had previously been traveling to remote areas several times per month. Now these doctors can provide medical care to inmates via telemedicine, which is more efficient and cost effective.

MS. BROOKS expressed concern on the wording related to controlled substances, which may adversely impact the department in two areas. First, currently a psychiatrist might prescribe a controlled substance for new arrests, who currently take medication, or experience a mental health crisis. Currently, this is done via the telemedicine system, which allows the department to provide safe and immediate interventions for mental health crises. Secondly, the DOC is a 24-hour provider. In addition to telepsychiatry, the department has physicians, nurse practitioners, and physician's assistants who are on call telephonically for all DOC medical clinics and facilities, including half-way houses and community jails. Prescribing controlled substances is common for DOC providers, in particular, for those who experience withdrawal symptoms. She indicated that some intoxicated people are arrested after hours and the department doesn't have any providers on site. She estimated 3,000 prescriptions per year for detox protocols for controlled substances are made by telephone by these providers. Since telemedicine has improved the department's ability to provide services to the DOC's clientele, the department has concerns about how that section of HB 281 would impact them.

5:28:10 PM

DR. LAWRENCE outlined two different forms of telemedicine. Telemedicine has long been offered in Alaska, initially as a provider-to-provider communication. For example, if a physician needed a consultant, the physician might use a telemedicine consult to obtain an answer. This bill seems to relate to the second form of telemedicine, which is a direct patient-to-provider consultation. He clarified that the department engages in the first type of telemedicine. He related a scenario to illustrate how telephonic communications have been used in rural areas, such as in Nome to treat someone who was arrested but began experiencing alcohol withdrawal, which could lead to a deadly condition of delirium tremens (DTs). In those instances the treatment is to prescribe a benzodiazepine that can prevent seizures or else the inmate must be taken to the emergency room.

Thus, an unintentional consequence of HB 281 will prevent him from prescribing a controlled substance using telemedicine since he could be sanctioned by the board. He said the language needs to be clarified to address the current practices.

CHAIR OLSON indicated Dr. Lawrence is working with the sponsor and his office to address those issues.

5:30:06 PM

REPRESENTATIVE MILLETT asked whether the DOC could be exempted from the bill.

DR. LAWRENCE answered that would be one viable option.

5:30:23 PM

REPRESENTATIVE MILLETT asked whether any other state agencies perform similar functions.

DR. LAWRENCE answered that in Alaska other organizations have the same model, for example, ANTHC is the other group that uses the same model and often experiences the same scenarios although the patient population may be different.

CHAIR OLSON offered to keep the public testimony open.

[HB 281 was held over.]

5:31:27 PM

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:31 p.m.